

In the Claims:

Please amend the claims as follows:

B1
Sulh
C1

33. (Twice amended) A method for detecting a ligand within a test sample, comprising contacting a test sample with a polypeptide comprising a segment selected from the group consisting of:

(a) residues 141 to 337 of SEQ ID NO:2; and

→ (b) an allelic variant[s] of (a),
and detecting binding of said polypeptide to ligand in the sample.

35. (Amended) A method according to claim 33 wherein said polypeptide further comprises a transmembrane domain and an intracellular domain[s].

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REMARKS

Although claims 1-39 are pending in the present application, claims 1-32 and 39 have been withdrawn from consideration. The Examiner has objected to claims 33 and 35 due to several informalities. Applicants have amended these claims, following the suggestions of the Examiner. No new matter has been added by way of these amendments.

In the Office Action dated February 24, 1998, the Examiner made one rejection of the claims. In response, applicants respectfully submit the following remarks.

1. Rejection under 35 USC §102

The Examiner has rejected claims 33-38 under 35 USC §102(e), as being anticipated by Collins *et al.*, U.S. Patent No. 5,710,023. Applicants respectfully submit that the attached declarations evidence that the Collins patent is not available as prior art under §102(e).¹

In particular, applicants present a Declaration Under 37 CFR §1.131, which shows that the inventors of the above-captioned application conceived of the

¹ Applicants have redacted dates from the exhibits of the Rule 131 declaration, as allowed under §715.07 of the *Manual of Patent Examining Procedure*, 6th Edition (Rev. 3, July 1997). Moreover, applicants have redacted information from the exhibits of the Rule 131 and Gary Parker declarations that is not relevant to the issues addressed by the declarations, such as information regarding projects that are distinct from the project that gave rise to the present application.

subject matter described in claims 33-38 before March 1, 1996. In addition, applicants present a Declaration of Gary E. Parker, which shows that he diligently worked to draft and to file the Baumgartner provisional application of the above-captioned application starting before March 1, 1996, and continuing to the filing date of March 13, 1996. Accordingly, applicants submit that the declarations evidence: (1) conception of the presently claimed invention prior to March 1, 1996, the effective date of the Collins patent, and (2) due diligence from prior to the reference date to the filing date of the Baumgartner provisional application. The Collins patent, therefore, is not available as prior art under §102(e).

The Examiner will note that four of the five named inventors have executed the Rule 131 declaration. The fifth inventor, Theresa M. Farrah, is currently traveling through the Middle East. As Theresa Farrah explains in the attached e-mail message from Lebanon (Exhibit A), obtaining her review and execution of the Rule 131 declaration is not practicable for the foreseeable future, although it may be possible in late September, which is beyond the statutory deadline for filing a response to the pending Office Action. Accordingly, applicants submit that the Rule 131 declaration, executed by the four inventors, is sufficient because Theresa Farrah is *unavailable* for executing the declaration, and because the declaration, although signed by fewer than all joint inventors, evidences conception of the subject matter described in the presently pending claims. *MPEP* §715.04

In view of the declarations and remarks above, applicants respectfully request the Examiner to withdraw the rejection of the claims under §102(e). Reconsideration of the claims is respectfully requested.

Conclusion

Reconsideration of the application and its allowance are requested. If for any reason the Examiner feels that a telephone conference would expedite prosecution of the application, the Examiner is invited to telephone the undersigned at (206) 442-6681.

Respectfully Submitted,
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